

## **The complaint**

Mrs P is unhappy that HSBC UK Bank Plc has declined to reimburse the money she's lost to a fraudster.

## **What's happened?**

Mrs P has fallen victim to a safe account scam.

She received a text message asking her to click a link to pay a delivery fee for a package she was expecting. She followed the link and entered her payment information. Shortly afterwards, she received a phone call from a number which showed as HSBC on her caller identification. The number was the same as the one on the back of her HSBC debit card. The caller told her that a fraudulent payment had debited one of her HSBC accounts and further fraudulent payments were in progress, so she needed to act quickly to prevent any further loss by moving the money in all of her HSBC accounts to a 'safe account'. Mrs P checked and saw that the fraudulent payment the caller had mentioned had indeed debited her account. She then transferred £9,200 via faster payment to the safe account details the caller had provided ('the payment').

Unbeknown to Mrs P, a scammer had spoofed HSBC's number and was tricking her into moving money into their account.

Mrs P reported the fraud on 25 March 2021. HSBC contacted the receiving bank on 26 March 2021. £3,830.11 was recovered from the beneficiary account and returned to Mrs P.

HSBC has declined to reimburse Mrs P's remaining loss under the Lending Standards Board's Contingent Reimbursement Model ('CRM Code') because it says she ignored an effective warning it gave her during the payment journey and that she could've done more to protect her account – such as, contacting HSBC on a registered number to confirm the call she'd received was genuine.

## What did our investigator say?

Our investigator didn't uphold the complaint. She wasn't convinced that Mrs P had ignored an effective warning from HSBC, but she did think that there were several clear warning signs that Mrs P missed – such as the caller failing to ask her any security questions.

Mrs P said:

- The number the scammer called from was the same number as the one on the back of her HSBC debit card, so she had no concerns or reason to believe that she wasn't speaking to HSBC.
- The scammer didn't ask her for any personal details – such as her PIN number – so she wasn't alerted to the possibility of fraud.
- At the time of the call, she was overcome with a dreadful feeling of fear. She had just sold her property and the sale proceeds were in her HSBC accounts. The scammer

- made her feel as though she was racing against the clock to protect her money.
- HSBC only gave her one warning during the payment journey, and the scammer coached her through that.
- She didn't disclose any personal details to the caller.

### My provisional decision

I issued my provisional decision on 5 May 2022. I'll set out my findings below.

HSBC is a signatory of the CRM Code, which requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, like the one Mrs P has fallen victim to, in all but a limited number of circumstances. HSBC has argued that two of the exceptions apply in this case. It says that Mrs P ignored an effective warning it gave during the payment journey and she made the payment without a reasonable basis for belief that the payee was the person she was expecting to pay, the payment was for genuine goods or services and/or the person or business she was transacting with was legitimate.

HSBC hasn't provided us with a copy of the warning it says Mrs P would've been presented with during the payment journey, but from what I know of HSBC's warnings at the time, I think it's unlikely that it would've been impactful enough. I don't think, for example, that it would've clearly explained that telephone numbers can be spoofed by fraudsters so they can pretend they're calling from the bank. Overall, I think it's doubtful that the requirements of the effective warning exception would be met.

If HSBC had really brought to life what a scam of the nature Mrs P fell victim to looks like with an effective warning – explaining, for example, how telephone numbers can be spoofed, that pressure will usually be applied to move money to a 'safe account' immediately to prevent loss, and that victims have often clicked a link received via text message or email prior to receiving a call stating that fraud is occurring on their account/s. And if HSBC had given advice on how customers can protect themselves from this type of scam, and explained the potential consequences of continuing with an irrevocable payment, then I think this would've been important contextual information that would've affected Mrs P's decision making and led her to take additional steps to protect herself.

I appreciate that Mrs P could've done more in this situation to protect herself from fraud. But ultimately, she was in a pressured situation, heightened by the recent sale of her property and the amount of money held in her accounts, and the spoofed number together with the fraudulent payment the caller showed her had debited her account convinced her, in the heat of the moment, that nothing was amiss. As HSBC doesn't appear to have made the scam risk clear, and the fraud was sophisticated, I don't think this is unreasonable. I note that HSBC has said Mrs P would've received a message which confirmed that the beneficiary name she'd input matched the beneficiary account, and I think this would've reassured her.

Overall, I'm satisfied that Mrs P had a reasonable basis for belief in this case.

It's worth mentioning that Mrs P says her husband attempted to call HSBC during the scam but she was unaware of his suspicions at the time she was on the call and made the payment, so I don't think this should make a difference to the outcome of the complaint.

Considering everything, I'm persuaded that HSBC should have reimbursed the money Mrs P lost to this scam under the terms of the CRM Code. I'm not persuaded that any of the permitted exceptions to reimbursement apply in the circumstances of this case.

In addition, I think that HSBC ought reasonably to have done more to prevent this scam. I've

looked at Mrs P's account statements in the six months leading up to the scam. I can see that she had been making some fairly high value payments on occasion, but the £9,200 payment she instructed was by far the highest value, and it went to a new payee. I think it stands out as unusual and out of character. So, it's reasonable to expect HSBC to have asked Mrs P some questions about the payment. Had it done so, I think the scam would've quickly unfolded and Mrs P wouldn't have gone ahead with the payment.

The relevance of this finding is that HSBC ought to have prevented the loss, rather than just reimbursed Mrs P under the provisions of the CRM Code. It follows that HSBC should pay Mrs P interest from the date of loss, rather than the date it decided not to refund her under the CRM Code.

I can't know for certain what Mrs P would've done with the funds she lost had she not been defrauded. They were from the sale of her house and being held in her current account. Looking at her account statements, it seems likely she would've used the money for other things over time, so I think it's fairest to award interest at a rate of 8% simple per year – to reflect the cost of being deprived of that money.

In all of the circumstances, I currently think that the fair and reasonable outcome is to uphold this complaint and require HSBC to refund Mrs P's outstanding loss of £5,369.89 and pay 8% simple interest per year from the date of payment to the date of settlement.

On a final note, I'm not satisfied that HSBC fulfilled its obligations under the Best Practice Standards for recovering a customer's funds. Mrs P reported the fraud on 25 March 2021, but HSBC didn't notify the receiving bank 'immediately' – it notified the receiving bank on the next day and £3,830.11 was recovered from the beneficiary account. Earlier notification from HSBC may have led to the recovery of a higher proportion of Mrs P's funds.

For the reasons I've explained, I've provisionally decided that HSBC should reimburse Mrs P's outstanding loss of £5,369.89 and pay 8% simple interest per year from the date of payment to the date of settlement.

#### Responses to my provisional decision

Both Mrs P and HSBC accepted my provisional decision.

#### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As both parties have accepted my provisional decision, and neither have provided me with any new information to consider, I see no reason to depart from the conclusions set out in my provisional decision.

#### **My final decision**

For the reasons I've explained, my final decision is that HSBC UK Bank Plc should:

- reimburse Mrs P's outstanding loss of £5,369.89 within 28 days of receiving notification of her acceptance of my final decision; plus
- pay 8% simple interest per year from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 9 June 2022.

Kyley Hanson  
**Ombudsman**